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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties
due in 1986

Addendum

SRI LANKA */

[22 March 1990]

GENERAL FRAMEWORK OF LEGAL PROTECTION

1. Chapter III of the Constitution of Sri Lanka enshrines as guaranteed fundamental rights, all the articles of the Covenant on Civil and Political Rights, subject to such modification as relevant to Sri Lanka.

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*/ For the initial reports submitted by the Government of Sri Lanka, see CCPR/C/14/Add.4 and 6; for its consideration by the Committee, see CCPR/C/SR.471-SR.473 and SR.477 and Official Records of the General Assembly, Thirty-ninth session, Supplement No. 40 (A/39/40), paras. 95-135.

GE.90-16088/3481a

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2. The fundamental rights so guaranteed are protected by the Highest Court which can provide remedy or relief. The Court has, in addition to determining cases of violations of fundamental rights, also extended the ambit of the guarantee by giving broad interpretations of constitutional provisions, and construing them in favour of victims where this appeared to be just and equitable in ensuring protection of human rights.

3. Some landmark cases in this area include:

(a) The extension of the protection against executive and administrative actions, by including in the judicial interpretation of the phrase "Executive and Administrative action", acts of companies which are substantially controlled by the Executive;

(b) Imposing liability on the State for violations of fundamental rights, even where the individuals responsible for the violations were not acting within the scope of their office;

(c) Declaring ultra vires of the Constitution an Emergency Regulation restricting the affixing and distribution of posters and leaflets on the grounds of size. The Regulation was immediately amended to fall in line with the decision of the Supreme Court;

(d) Imposing liability on the State for detaining a person over and above the period reasonably required for investigations, even where such detention was within the period prescribed by statute.

Efficacy of the writ of habeas corpus

4. A large number of cases has been filed alleging that persons were being illegally detained in custody. Many of these applicants could not establish the allegations, even though the Court extended relief even accepting that a detention order made by the Secretary to the Ministry of Defence is subject to review on the grounds of reasonableness.

Derogation from guaranteed rights

5. Derogation from these rights is provided for in the interests of national security, public order, the provision of services essential to the life of the community, the protection of public health and morals or the benefit of other members of society. However, none of the provisions listed in article 4 of the Covenant as non-derogable, can be derogated from under any circumstances. Compliance with article 4 has been provided for in the case of a declaration of a state of emergency. Several other statutory provisions have been enacted to ensure the protection of human rights and the observance of minimum standards declared by relevant United Nations bodies.

MATTERS SUPPLEMENTAL TO THE INITIAL SRI LANKA REPORT

6. Since the last report (CCPR/C/14/Add.6), Sri Lanka has undergone a very difficult period due to the activities of two main groups. In the northern part of Sri Lanka, groups agitating for a separate State continued their acts of violence and sabotage. As a possible solution, the Government proposed an amendment to the Constitution to provide for a devolution of power to

Provincial Councils and invited the Indian Peace Keeping Force to disarm the insurgence groups. This proposal was opposed by the opposition in Parliament, and several groups resorted to violence and sabotage including an almost successful assassination of the President, Prime Minister and several Cabinet Ministers by exploding two grenades in a Committee Room of the Parliament when a Government group meeting was in progress.

7. These groups of persons attempted by armed insurrection to overthrow the lawfully constituted Government. Their efforts proved ineffective, both due to timely action by the police and armed services and due to lack of public support. Upon being thwarted in their main endeavour, they began to attack private persons whom they perceived as supporters of the political party in power and family members of Service officers. They also resorted to robbery and plundering indiscriminately. The unfortunate concomitant of this action was that the victims of the attacks and robberies or members of their families in turn resorted to private vengeance-taking.

8. The Government has taken several measures to check such unlawful activity, such as:

(a) The setting up of machinery to hear complaints regarding acts of vengeance, abductions or disappearances, guaranteeing anonymity to the complainants;

(b) Arrangements for accepting persons who surrender and providing for their rehabilitation;

(c) The setting up of a Presidential Commission to inquire into the causes of youth unrest and to make recommendations for the elimination of the causes;

(d) The setting up of an All-Party Conference consisting of representatives of all political parties in Sri Lanka, in an endeavour to find a peaceful solution to the issues which led to the use of anti-Government violence.

Provincial Councils

9. The Provincial Council system has now become operational with the election of members and the formulation of their respective Boards of Ministers. Enabling statutes have also been enacted for the implementation of the process of devolution.

10. The groups have declared a cessation of hostilities against the Government of Sri Lanka, but continue to agitate for the complete withdrawal of the Indian Peace Keeping Force and for fresh elections in the areas where they contend that members sponsored by the Indian Peace Keeping Forces were illegally elected. In the interim, there have been clashes between the main group, the Liberation Tigers of Tamil Elam (LTTE), and the illegal paramilitary force calling themselves the Tamil National Army.

11. The Sri Lankan armed forces are now being brought into the areas from which the Indian Peace Keeping Force have been withdrawn. Steps are being taken to reopen the police stations as a prelude to the restoration of normalcy.

Declaration of a State of Emergency

12. Due to the disturbances and subversive activity which reached a peak during the years between 1984 and 1989, Sri Lanka was compelled to invoke the provisions of the Public Security Ordinance and declare a State of Emergency.

13. However, the following precautionary steps minimize any abuse of the powers under the Emergency. The power to declare a State of Emergency and invoke Emergency Regulations is conferred on the President himself, who may do so only when he is satisfied of the existence of a threat or eminent threat to national security, public order or the provision of services essential to the life of the community. Furthermore, Parliament is required to review the declaration of a State of Emergency and the necessity to invoke Wmergency Regulations. Approval of Parliament once every month is necessary to continue with a State of Emergency declared by the President. In order to ensure that the provisions relating to detention are applied where essential and not misused by those in authority, every person detained is given the statutory right to make representations to an Advisory Board appointed by the President under the provisions of the Prevention of Terrorist Act and the Emergency Regulations. The Advisory Board is empowered to inquire into matters represented to them and to make recommendations to the President and to the Minister in charge of the Prevention of Terrorism Act so that appropriate steps can be taken to redress their grievances.

Habeas corpus

14. The right to the writ of habeas corpus is provided by the Constitution and is not derogable even in times of emergency. The right is freely exercised by application filed in the Court of Appeal. Statistics show that over 600 people made applications for the writ of habeas corpus in 1989 alone and only a handful of these applications were proved to have been of sufficient merit to require the intervention of the court.

15. During the operation of emergency regulations and the Prevention of Terrorism Act, further safeguards are provided through several statutory functions exercised by the Attorney-General. Officers of the Attorney-General's department, in the exercise of their general powers, tender advice on all matters relating to these laws and ensure that the special powers are not used arbitrarily or abused by those in authority. A prosecution under these laws is possible only with the sanction of the Attorney-General or after a direct indictment is filed by him. This ensures that only those persons whose acts cause a threat to national security, public order or the provision of services essential to the community are prosecuted under the provisions of these special laws.

16. Any officer found to have abused the powers given to him under these laws can be dealt with either by administrative machinery or by prosecution in court, depending on the gravity of the alleged infraction.

CONTINUING HUMAN RIGHTS ACTIVITIES

17. Commission for the Elimination of Discrimination and the monitoring of fundamental rights: The Director of Human Rights, acting under the authority of the Commission, hears complaints of acts of discrimination and is empowered to persuade the parties to arrive at a settlement which would remedy the

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alleged violation. If no settlement is possible, the Director reports to the Commission which makes a further attempt at settlement, failing which the violation is reported to the President.

18. The Organisation for the Protection of Human Rights Through Law Enforcement Agencies (ORPTLEA), was set up by the authority of the Sri Lanka Foundation:

(a) To ensure that law enforcement officers would prevent and control crime and ensure the administration of law and equal justice;

(b) To ensure that law enforcement officials conform in their behaviour to the Universal Declaration of Human Rights;

(c) To promote respect for the observance of human rights amongst law enforcement officers;

(d) To study and formulate principles, practices, procedures and prerequisites for the performance of law enforcement functions in Sri Lanka;

(e) To assist in formulating policies and codes of conduct which through co-ordination and integration would advance the administration of justice in general and the observance of human rights in particular.

19. The Organisation has taken several meaningful steps to implement further the United Nations Code of Conduct for Law Enforcement Officials and conducted several national and international seminars and training programmes for law enforcement officers with a view to improving the quality of human rights protection in Sri Lanka.

20. The Ombudsman: An Ombudsman (Parliamentary Commissioner for Administration) was created by Parliament by Act No. 17 of 1981 and is required to investigate petitions presented to a committee by Members of Parliament concerning the infringement of a fundamental right or other injustice by public officials. At the conclusion of his inquiry, the Ombudsman reports to the special Parliamentary committee with his recommendations.

Cessation of security operations and cease-fire committees

21. In spite of a mounting tide of violence and acts of subversion and terrorism, the Government has persisted in its stated objective to find peaceful means for the resolution of conflicts, and invited a dialogue and the search for solutions through democratic means. The Government has, from time to time, ordered unilateral cessation of security operations throughout the island to enable such dialogue. However, the response has not been satisfactory.

22. In order to ensure compliance with the Government directive, the President has appointed committees to monitor the activities of the security forces during the operation of the "cease-fire" and to receive complaints as well as to investigate any violations that are alleged to have occurred. The activities of the committee are reported to the President at the end of the period. It must be noted that allegations of cease-fire violations have been rare and in general the security forces have been commendable in the performance of their duties and compliance with Government directives.

Committee to probe the arrest of students

23. In recent times it has been reported that a large number of young people and students was involved in subversive activities in several parts of the island. In order to make sure that only young people and students who had participated were arrested by the security forces and to guarantee the protection of the law to those who had been arrested, the Government appointed a committee to probe the arrest of students. This committee is headed by a senior Cabinet Minister.

Presidential Commission on Youth Unrest

24. The Government, having pledged to eliminate the causes which resulted in violent opposition to the democratic way of life, is taking several measures in this direction. Very recently, the President appointed a committee to investigate youth unrest, and mandated it to identify causes for such unrest and suggest ways to strengthen their efforts for the protection of human rights and the restoration of peace and normalcy in Sri Lanka. Eminent politicians, scholars and academics have freely expressed their views and are actually participating in various activities directed towards these ends. The Government has, wherever possible, given them assistance and encouragement.

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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties due in 1986

Addendum

MOROCCO */

[22 March 1990]

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*/ For the initial report submitted by the Government of Morocco, see CCPR/C/10/Add.2; for its consideration by the Committee see CCPR/C/SR.327, SR.328, SR.332 and Official Records of the General Assembly, Thirty-seventh session, Supplement No. 40 (A/37/40), paragraphs 134 to 165.

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I. GENERAL

1. In 1981, the Government of Morocco submitted its initial report on the International Covenant on Civil and Political Rights (CCPR/C/10/Add.2). The report contained information on the various legislative provisions in force and the means available to ensure that Morocco observed the principles set out in the 1966 Covenant. The purpose of this report is to provide additional information on the measures adopted in application of the provisions and principles of the Covenant.

2. The institutional aspects of human rights protection under the Moroccan legal system, whose supreme instrument is of course the Constitution, have already been described in the first part of the initial report (CCPR/C/10/Add.2). Accordingly, this report will be restricted to new developments that have occurred since the first report was submitted and to a number of clarifications intended to demonstrate how Morocco complies with its obligations under the Covenant.

3. It should be mentioned that three associations have been established in Morocco for the purpose of defending and furthering human rights. They are: the Moroccan League for the Defence of Human Rights (LMDH), the Moroccan Human Rights Association (AMDH) and the Moroccan Human Rights Organization (OMDH).

II. INFORMATION RELATING TO ARTICLES 1 TO 27 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Article 1: The right to self-determination

(1) Domestic dimension of the principle

4. The right of peoples to self-determination, by virtue of which they freely pursue their economic, social and cultural development, is without question a sacred, inalienable and imprescriptible human right. The right of peoples to self-determination, which appears in Articles 1 and 55 of the Charter of the United Nations, is guaranteed in Morocco. The Moroccan Constitution, adopted by referendum on 1 March 1972 and promulgated on 10 March of that year, is highly instructive in this respect, in particular its articles 1, 2 and 3, which lay the very foundations and bases of the Moroccan political system. As indicated in the initial report, it enshrines the democratic principles of national sovereignty, the legitimacy of those who govern and the representation of citizens.

(2) International dimension of the principle

5. As far as the erection of and respect for the principle of the right of peoples to self-determination is concerned, Morocco has always been a stalwart defender of the principle and one of the promoters of its application to those countries remaining under foreign domination, particularly in Africa and the Middle East. The major role played by Morocco in preparing the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the United Nations General Assembly on 14 December 1960, should here be recalled, as should the country's constant, manifold and unswerving support for the struggle of genuine national liberation movements.

6. In addition to its unreserved support for resolution 1514 (XV) of 14 December 1960, Morocco has signed various multilateral legal instruments adopted by the United Nations General Assembly: resolutions 1541 (XV) of 15 December 1960 and 2625 (XXV) of 24 October 1970, which reflect fundamental aspects of the political, economic and social content of the right to self-determination; resolution 1803 (XVII) of 14 December 1962 entitled "Permanent sovereignty over natural resources"; the Declaration on Social Progress and Development, adopted by resolution 2542 (XXIV) of 11 December 1969; and the Declaration on the right to development, adopted by resolution 41/128 of 4 December 1986.

7. Lastly, we may recall that the Moroccan Royal Academy devoted its second 1984 session, held at Marrakesh from 25 to 27 October 1984, to considering the contents and scope of this principle.

Article 2: Measures designed to give effect to the rights recognized in the Covenant and remedies

(1) The Moroccan Constitution

8. The Constitution recognizes the importance of the dignity of individuals and accordingly guarantees the equality of all Moroccans before the law through the provisions of article 5, which states: "All Moroccans are equal before the law".

(2) Efforts to combat all forms of discrimination

9. Morocco ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 18 December 1970 and since 1972 has submitted periodic reports clearly demonstrating that discriminatory practices based on race, colour, sex, language, religion or any other form of segregation whatsoever are not only completely inexistent in Morocco but are also totally unknown, since they are in contradiction with the precepts and teachings of Islam, a religion that preaches tolerance and the protection of individual and collective rights. The verses of the Koran and the teachings of the Sunna (the tradition of the Prophet Mohamed) which strongly emphasize the common origin of human beings and their complete and perfect equality in the eyes of the Creator, formally prohibit any claim to ethnic, racial or linguistic superiority.

(3) Guaranteed rights for aliens

10. The rights of aliens are guaranteed by the Constitution on the same footing as those of citizens and are characterized by respect for human rights and the fundamental freedoms of all individuals, provided aliens in turn observe the provisions of the texts in force. Thus, as an illustration, the right of association is guaranteed to aliens, with the exception of the right to exercise political activities. Article 23 of the Dahir of 15 November 1985 regulating the right of association stipulates that "no foreign association may be established or operate in Morocco without having made the prior declaration required pursuant to article 5", which stipulates that all associations must be the subject of a prior declaration at the headquarters of the local administrative authority (Caid or Pasha) and before the government attorney of the court of first instance of the relevant jurisdiction, or failing that at the prosecutor's office of the regional court.

(4) The existence of remedies

11. The remedies mentioned in article 2, paragraph 3 of the Covenant were fully covered in the second part of the initial report by Morocco. It may be recalled that there are three types of remedy which allow any person who considers that his rights have been encroached upon or violated to bring a suit in order to put an end to the infringement, restore his legal rights, have the person responsible for the abuse punished and obtain moral or material damages for the injury suffered. Furthermore, criminal law and the Civil Code make provision for appeal to the competent courts within the framework defined by the Codes of Criminal and Civil procedure (dated respectively 10 February 1959 and 28 September 1974). Lastly, Moroccan legislation guarantees all the inhabitants of Morocco unhindered access to Moroccan courts without the need to deposit a security (judicatum solvi). This right may even be exercised by an individual not domiciled in Morocco.

Article 3: Equal rights for men and women

12. In Morocco, both the Constitution and the relevant national statutory norms guarantee equal rights for women and prohibit discrimination against them in the various political, economic, social or cultural spheres of life. Both the Convention on the Political Rights of Women of 31 March 1953, to which Morocco acceded on 22 November 1976, and the Convention on the Elimination of All Forms of Discrimination against Women adopted by the United Nations General Assembly on 18 December 1979, broadly coincide with the relevant Moroccan legislation which punishes any inequality or discrimination on any grounds whatsoever, and emphasizes the need to grant men and women equal civil, political, social and cultural rights.

(1) The civil rights of Moroccan women

13. As soon as they come of age both married and unmarried women enjoy the same rights as men in respect of legal capacity. Article 133 of Dahir No. 1-58-019 of 4 Rajab 1377 (25 January 1958), which implements throughout the territory of the Kingdom the provisions of Part IV on legal capacity and representation, stipulates: "Any individual who has come of age, is in full possession of his mental faculties and who is not manifestly prodigal, shall possess full capacity to exercise his civil rights."

14. Similarly, the Code of Civil Procedure and the Code of Criminal Procedure make no distinction between men and women at any stage in procedures before courts and tribunals.

15. The Dahir of 9 Ramadan 1331 (1 August 1913) which lays down the Code of Obligations and Contracts and the Code of Personal Status in no way restricts the capacity of women as regards contracts, nor as regards the purchase, management and sale of goods. In this respect, a woman may not be prevented from exercising her activity on grounds of marriage nor can it affect her legal capacity.

16. The Constitution guarantees all citizens, both men and women, equal rights regarding freedom of movement and freedom to choose their place of residence and domicile.

17. As regards personal and family status, women enjoy the same rights as men freely to choose their spouse and to marry only with their free and full consent. Article 4 of Section 1 of the Code of Personal Status (Dahir No. 5-57-343 of 28 Rabi' II 1377 (22 November 1959)) stipulates that "marriage is validly concluded by the exchange of the consent of the parties, expressed in the consecrated terms or in any form accepted by custom".

18. The marriage of children is totally prohibited: the age of marriage for girls is 15 and for boys 18 (art. 8 of the Code of Personal Status).

19. Within marriage, it may be observed that the Code of Personal Status, based on the writ of the holy Muslim religion, stipulates as follows:

(a) Married women keep their family name and use it as their signature; a husband may not compel his wife to bear his family name nor to accept his kinship (art. 94);

(b) The law makes no provision for a husband to prevent his wife from choosing a profession or occupation.

20. With regard to custody, article 99 of the Code of Personal Status provides that in case of the dissolution of a marriage, the custody of the child shall be granted as a matter of priority to the mother, and then to the following persons in descending order: the maternal grandmother of the child, the maternal great grandmother and the maternal aunt. The article names further female relatives all of whom take priority over the first male relative who may be given custody.

21. With respect to nationality, women have the same rights as men to acquire or change their nationality, in accordance with the provisions of Dahir No. 1-58-250 of 21 Safar 1378 (6 September 1958) concerning the Code of Moroccan nationality. Under article 10 of this Dahir, a foreign woman who is married to a Moroccan and resident in Morocco for at least two years may submit a request for Moroccan nationality to the Ministry of Justice. Similarly, the marriage of a Moroccan woman to an alien does not ipso facto affect the nationality of the wife and any change in the nationality of the Moroccan husband cannot affect the nationality of the wife, which may only be changed by the wife's consent accompanied by the authorization of the Moroccan Government.

22. With respect to the nationality of children, a child born of a Moroccan father automatically acquires Moroccan nationality. By the same token, a child whose mother is Moroccan enjoys Moroccan nationality. The only exception to this rule is that of a child born of a Moroccan mother and an alien father outside of Morocco. Such a child may acquire Moroccan nationality through naturalization.

(2) The economic, social and professional rights of the Moroccan woman

23. On the subject of labour legislation, the Dahir of 1 Sha'ban 1366 (2 July 1947) regulating working conditions protects women against any form of abuse in this respect, and, for example, stipulates the maximum number of working hours, prohibits night work, underground work and dangerous work as well as the employment of women under 21 years of age in establishments

dealing in alcoholic beverages, and requires that the employment of women in such establishments shall be authorized and supervised. In addition to these areas of activity, both sexes are guaranteed equal opportunity in employment and at all levels of skill and responsibility.

24. In the case of maternity, the woman is allowed 10 weeks leave which may be extended for a period of 6 months sick leave. She is also allowed one hour's nursing break per day for one year.

25. The working woman is entitled to the following benefits: family allowances, a daily maternity allowance, a daily sickness allowance, an old-age pension, a surviving spouse's pension, a bereavement grant, a disability benefit and medical costs. These allowances are paid by the National Social Security Fund. The Dahir of 30 August 1975 also sets the minimum wage for workers and employees, without distinction as to sex.

26. The Public Service Statute was enacted in the Dahir of 24 February 1958 and draws on article 12 of the Constitution which states that, "Public duties and employments shall be open to all citizens under the same conditions". The statute guarantees the same rights for men and women in respect of recruitment, promotion etc. Hence, article 1 of the Dahir provides that "for purposes of application of the present statute, all Moroccans are entitled to enter the public service on equal conditions ... without distinction as to sex".

27. In practice, an increasingly large number of women are engaged in various sectors of economic activity. Thus, for example, the proportion of women in the working population rose from 8.6 per cent in 1978 to 12 per cent in 1985 and to 14 per cent in 1987. In the agricultural sector, this proportion is as high as 30.7 per cent.

28. Nowadays, women work in the royal armed forces, in the national police force (there are now 464 policewomen according to National Security Department figures); women are on the bench and 184 out of a total of 1,842 magistrates are women.

29. Among Morocco's most impressive achievements in promoting human rights are the programmes being executed to integrate women, especially in the rural areas. Thus, for example, in the area of handicrafts, women's co-operatives account for 19.6 per cent of all co-operatives, in other words 25.5 per cent of all handicraft co-operative members.

30. In the field of education, where women represent 40 per cent of the teaching staff and 30 per cent of university students, women have established themselves in areas formerly dominated by men. In recent years, increasing numbers of women have entered such branches of high technology as flying, telecommunications, engineering, medicine and scientific research.

(3) Political rights of Moroccan women

31. With regard to the political rights of Moroccan women, the Moroccan Constitution specifically guarantees the principles of equality and non-discrimination against women. Article 5 states that "All Moroccans are equal before the law" and article 8 provides that "Men and women shall enjoy

equal political rights". Women are thus on an equal footing with men and suffer no discrimination in respect of their right to vote in all elections, as provided in article 4 of Dahir No. 1-59-161 of 1 September 1959, which stipulates that "all Moroccans who have attained the age of 21 years [of either sex] and who fulfil the conditions laid down by the law are entitled to vote". Women also enjoy the right to stand for election, to be members of any popularly elected body, provided that they satisfy the conditions prescribed and that they have attained the age of 25 years (art. 14 of the Dahir referred to above).

32. In order to ensure that citizens enjoy those rights, article 225 of the Criminal Code decrees that any act which may prevent a citizen, man or woman, from exercising his or her rights is punishable: "any magistrate, public official, or any superintendent or other officer of the public authorities or the police who orders or commits any arbitrary act that undermines the individual freedom or civil rights of one or several citizens shall be punished by loss of civil rights".

33. In recent years more and more women in Morocco have become members of political and trade union organizations and of communal or provincial assemblies. Women have thus gained access to new forums where they can defend their rights, submit proposals which reflect their aspirations and establish themselves firmly as fully-fledged partners in the work of development. Consequently, it should be emphasized that in drafting and implementing the above-mentioned laws and regulations which establish the fundamental rights of women under the Constitution as the supreme instrument, special attention has been paid to Moroccan women in all aspects of life in society.

Article 4: Restrictions on the right to derogate from contractual obligations under the Covenant

34. The provisions to protect individual freedoms in an emergency situation cannot be the same as those under normal circumstances. This means that during a period of crisis the normal law of freedoms is superseded by more restrictive legislation. In Morocco, the fundamental principle on which the theory of an emergency situation is based and hence which underlies suspension of the guarantees of inherent human rights and freedoms is expressed in article 35 of the Moroccan Constitution of 10 March 1972, as follows: "When the integrity of the national territory is threatened, or events occur which might jeopardize the functioning of the constitutional institutions, the King, after having consulted the Presidents of the two chambers and addressed a message to the Nation, may proclaim by royal decree martial law. Having done so he shall be enabled, notwithstanding any provisions to the contrary, to take such measures as are necessary for the defence of the territorial integrity and the return to a normal functioning of the constitutional institutions. He shall put an end to martial law in the same manner as for its proclamation".

35. In addition, it should be noted that since the International Covenant on Civil and Political Rights came into force in Morocco, there has been no emergency situation requiring derogation from the guarantees enshrined therein. Those decisions were the subject of Royal Decree No. 136-65 of 7 Safar 1385 (7 June 1965) published in the Official Gazette No. 2745 of 9 June 1965.

Article 5: Ban on a narrow interpretation of the Covenant

36. The main characteristics of the Moroccan legal system were described in the first part of the initial report (CCPR/C/10/Add.2). The system is based on legislative texts which guarantee a number of rights and freedoms in full compliance with the International Covenant on Civil and Political Rights. The Covenant has now been included in the domestic legislation since all multilateral conventions which have been ratified in the manner provided for in the Constitution, article 31 thereof in particular, are incorporated into domestic law and applied if they contain civil or criminal provisions.

37. Accordingly, the provisions of the International Covenant on Civil and Political Rights automatically apply and may be quite legitimately invoked before the courts. In cases of dispute at law or conflict between laws, in the Moroccan legal systems - as in most modern legal systems - international law takes precedence over domestic law, a fact which in itself constitutes an additional guarantee of Morocco's observance of the provisions of the Covenant.

38. Morocco is aware that human rights have developed gradually and appreciates that their extensive contents vary depending on time and place, and in no way interprets the provisions of the Covenant in a manner that might undermine any of the rights and freedoms not mentioned in the Covenant but which constitute an integral part of the national legal corpus, as such an interpretation would in itself be contrary to the Covenant.

Article 6: The right to life

39. The judicial and legal framework circumscribing the provisions of article 6 of the Covenant concerning protection of the right to life have been described in the second part of the initial report. The legal provisions governing the death sentence in Morocco apply in particular to persons convicted of extremely serious, heinous or abhorent crimes. Thus, pursuant to the Criminal Code, crimes that carry the death penalty include:

(a) Attacks against the life or person of the King (art. 163); (b) Attacks against the life of the heir to the throne (art. 165); (c) Attacks against the life of the members of the Royal Family (art. 167); (d) Premeditated murder of one's father, mother or any other relative in the ascending line, otherwise known as parricide (art. 396); (e) Premeditated murder of a newborn child or infanticide (art. 397); (f) Attempting to take the life of a person by administering substances which may cause death immediately or after a lapse of time, irrespective of the manner in which such substances have been used or administered, and irrespective of the consequences of their use (art. 398); (g) Use of torture and barbarous acts to commit an act classified as a crime (art. 399); (h) Blows, injuries, violence, assault and battery or deprivation of food having caused the death of a child of under 12 (art. 410); (i) Crimes against the wellbeing of the Nation (Dahir No. 1-59-380 of 26 Rabi' II 1479 (29 October 1959)); (j) Kidnapping minors of under 18 if they have died as a result (arts. 471 to 474); (k) Wilfully setting fire to buildings, dwellings, cabins, tents, huts, (including mobile huts), ships, boats, shops, and works sites if they are inhabitated or used for habitation (art. 580).

40. This list of crimes that carry the death penalty in Morocco should be interpreted with caution, and it should be pointed out that in practical terms the death sentence is rarely passed as the courts frequently concede mitigating circumstances on behalf of convicts or commute their death penalty to life imprisonment. Moreover, no execution has taken place since 1982, as recognized by Amnesty International in its recent report on the death penalty.

41. Furthermore, pursuant to article 6, paragraph 4 of the Covenant, even if the death penalty is pronounced in accordance with the laws in force, most convicts are granted a royal pardon as provided for and guaranteed by article 34 of the Constitution which stipulates that "the King shall exercise the right of pardon". Article 649 of the Code of Criminal Procedure in turn specifies that "the sentence may only be executed when a reprieve has been refused". Accordingly, pardon is a prerogative of the King that is granted in accordance with the provisions of Dahir No. 1-57-387 of 16 Rajab 1377 (6 February 1958), relating to pardons. The provision for amnesty under article 51 of the Criminal Code falls within the attributions of the legislature: "Amnesty may result only from an explicit provision of the law. The law shall stipulate the consequences of amnesty without prejudice to the rights of third parties".

42. As was explained in the initial report, article 6, paragraph 5 of the Covenant, relating to the protection of pregnant women and persons below 18 years of age fully coincides with Moroccan domestic law, as moreover do the five other paragraphs of that article and all the other articles of the Covenant.

Article 7: Prohibition of torture

43. With regard to the provisions of article 7 of the Covenant which relate to the prohibition of torture and cruel, inhuman or degrading treatment or punishment, it should be pointed out that protection against this type of abuse of individual freedom is guaranteed by the Moroccan Constitution, article 10 of which clearly stipulates that "no one may be arrested, detained or punished except in the cases and in the manner prescribed by law."

44. Moroccan law makes provision for the punishment of acts of torture and of public officials guilty of such acts. Thus, as far as physical or bodily torture is concerned, Moroccan criminal law punishes persons who make use of or order the use of torture and other acts of brutality, whether they are private individuals or public officials, depending on the degree of violence employed and in accordance with the provisions of articles 392 to 414 of the Criminal Code. The penalties for such acts are increased if the violence, torture, brutality or other ill-treatment is inflicted by a magistrate, public official or law-enforcement officer. In this connection, article 231 stipulates that "any magistrate, public official or any superintendent or other officer of the public authorities or the police who, without lawful reason commits or causes to be committed acts of violence against persons, in or in connection with the exercise of his duties, shall be punished for such acts of violence according to their seriousness, and in conformity with the provisions of articles 401 to 403, although the penalty applicable shall be increased as follows:

- "In the case of an offence that falls within the jurisdiction of a police or correctional court, the penalty applicable shall be twice that laid down for the offence;

- In the case of a crime punishable by a period of imprisonment, the penalty applicable shall be life imprisonment;"

In addition, as has already been observed, article 399 of the Moroccan Criminal Code prescribes the death penalty for "whosoever makes use of torture or barbarous acts in order to commit an act classified as a crime" thereby indicating the considerable importance attached by Moroccan criminal law to protection against torture and similar acts.

45. Moroccan criminal law also punishes the various types of psychological or moral torture through the provisions of article 225: "Any magistrate, public official, or any superintendent or other officer of the public authorities or the police who orders or commits any arbitrary act that undermines either the individual freedom or civil rights of one or several citizens shall be punished by loss of civil rights". If the arbitrary act or act that undermines individual freedom has been committed or ordered to satisfy a private interest or personal desire, the penalty applicable is that stipulated in articles 436 to 440. Article 230 punishes violation of the home which it assimilates to a type of psychological violence: "Any magistrate, public official, or any superintendent or other officer of the public authorities or the police who, while acting in his official capacity, enters the home of an individual against that individual's will ... shall be punished by between one month's and one year's imprisonment and a fine from 50 to 500 dirhams".

46. Threatened crimes against individuals or property, non-assistance and failure to assist persons in danger (arts. 425 to 431), kidnappings, arrests, detentions or abductions not ordered by the established authorities and exclusive of those cases in which they are authorized by the law (arts. 436 to 439 of the Criminal Code as amended by the Dahir of 2 May 1974), libel or slander (art. 444) all constitute cases of psychological or moral violence that Moroccan law punishes in accordance with its concern to ensure the maximum protection for all aspects of human rights and fundamental freedoms.

47. It should also be emphasized that on 8 January 1986 the Kingdom of Morocco signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 39/46 of 10 December 1984.

Article 8: Prohibition of slavery

48. As soon as it acceded to independence, Morocco ratified the three conventions relating to slavery (the Slavery Convention signed at Geneva on 25 September 1926; the Protocol amending the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, done at Geneva on 7 September 1956). Furthermore, Morocco has acceded to the other international conventions or agreements concerning the punishment of the trade in human beings such as the International Convention for the Suppression of White Slave Traffic, signed on 4 May 1910 in Paris and amended by the Protocol

signed at New York on 4 May 1949 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others signed in New York on 21 March 1950. Morocco has always demonstrated its unswerving attachment to Islam and to its noble moral and religious teachings which prohibit slavery and all other similar practices. Such practices, which are in total opposition to the fundamental principles of Islamic private and public law which govern Moroccan society, are completely alien to Morocco.

49. Pursuant to article 8, paragraph 3 of the Covenant, it should be noted that Moroccan legislation is seriously concerned with protecting workers, be they young or adult, men or women, against any form of abuse. Accordingly, where children are concerned, the Dahir of 2 July 1947 which regulates work, prohibits any employer or establishment from employing children who have not reached the age of 12.

Article 9: The right to liberty and security of person

50. The right to liberty and security of person covered by article 9 of the Covenant is recognized and guaranteed by article 10 of the 1972 Constitution pursuant to which "no one may be arrested, detained or punished except in the cases and in the manner prescribed by law". The provisions whereby in Morocco observance of this principle is ensured in accordance with the law and whereby citizens are protected from any form of arbitrariness have been described in detail in the initial report (CCPR/C/10/Add.2). However, a number of points deserve closer attention.

51. First of all, it should be noted that, where individual freedoms are concerned, Moroccan criminal law employs the term "remand in custody" used in articles 152 to 165 of the Code of Criminal Procedure. In this connection, article 152 stipulates that "remand in custody is an exceptional measure."

52. Remand in custody, the duration of which varies depending on the offence, is ordered by the examining magistrate:

(a) In the case of an offence for which the maximum penalty prescribed by law is less than two years' imprisonment, the accused, if he is resident in Morocco, may not be held in custody for more than a month after his first appearance before the examining magistrate, unless he has already been sentenced either for a crime or to imprisonment for more than three months for an ordinary law offence (art. 153 of the Code of Criminal Procedure).

(b) In cases other than those referred to in the preceding article, a person may not be held in custody awaiting trial for more than four months. On the expiry of this time-limit, if it still appears necessary to hold the person in custody, the examining magistrate may extend the time-limit by an order stating the special reasons and issued in response to an application by the King's prosecutor, whose application must also be accompanied by a statement of reasons. Extensions so ordered shall not be for a period of more than four months (art. 154 of the Code of Criminal Procedure).

(c) In every case, provisional release, when it is not prescribed by law, may be ordered summarily by the examining magistrate after consultation with the King's prosecutor (art. 155 of the Code of Criminal Procedure). Provisional release may be requested by the accused or by his attorney at any

moment in the proceedings and the examining magistrate must rule on the request within five days. If he fails to do so, the accused may apply direct to the indictment chambers, which is required to give a ruling within 30 days following submission of the application. The King's prosecutor is also empowered to request provisional release at any time and the examining magistrate must reply to the request within five days, failing which the King's prosecutor may also apply to the indictment chamber in accordance with the same procedure and under the same conditions.

53. Lastly, it should be emphasized that a draft reform of the Moroccan Code of Criminal Procedure, designed in particular to restrict the duration of the extension of remand in custody, is under examination by the appropriate Moroccan authorities.

Article 10: The rights of detainees and persons deprived of their liberty

54. The provisions of the law and practices relating to article 10 of the Covenant are described in detail in the initial report, and all persons deprived of their freedom are treated in a humane manner, with due respect for the inherent dignity of the human person. The Dahir of 11 April 1915 concerning treatment of persons in prison and the Dahir of 26 June 1930 which established regulations governing the prison service and treatment in prisons contain provisions for the protection of prisoners. Thus, by way of example, detainees are protected against excesses or abuse by prison officers (art. 14 of the 1930 Dahir mentioned above). Separation between the different categories of detainees, men and women, adults and young detainees, etc. is also guaranteed (art. 18 of the 1930 Dahir and arts. 2 and 3 of the 1915 Dahir mentioned above).

55. As far as the supervision of prisoners is concerned, article 660 of the Code of Criminal Procedure stipulates that the King's prosecutor and the examining magistrate must visit prisoners at least once every three months to verify the legality of the lists of prisoners held under the responsibility of the prison governor and to check the conditions under which the prisoners are detained.

56. Apart from that, and in accordance with article 661 of the Code of Criminal Procedure, there is in each province or prefecture a supervisory commission whose principal task is to monitor the safety, health, hygiene and diet, and the material living conditions of detainees, to promote their moral re-education and social rehabilitation and facilitate their reintegration into society after their release. That Commission is presided over by the Governor of the province or prefecture, or by his deputy, assisted by the president of the Court of First Instance, the King's prosecutor at that Court, and the principal medical officer of health of the region or his deputy. It includes, in addition, honorary members appointed by the Minister of Justice from among persons known for their interest and concern for the welfare of convicted persons. The supervisory commission is empowered to visit all the prisons on the territory of the province or prefecture and to notify the Minister of Justice of any comments and observations or proposals which it may wish to make on the subject. It can also submit recommendations to the amnesty commission with respect to prisoners who, in its view, deserve to be pardoned. This commission operates throughout the Kingdom with precision and dedication.

Article 11: Imprisonment for inability to fulfil a contractual obligation

57. The principle formulated in article 11 of the Covenant according to which "no one shall be imprisoned merely on the grounds of inability to fulfil a contractual obligation" is in full conformity with Moroccan positive law, as indicated in the initial report. The application of Dahir No. 1-60-05 of 4 Ramadan 1380 (20 February 1961) relating to imprisonment for debt, operates only as a preventive measure. Moreover, its operation is both limited and optional because, in the first place, article 1 of the Dahir of 1961 mentioned above states that "the enforcement of all judgements or Appeal Court decisions ordering payment of a sum of money may be effected by means of imprisonment for debt" and, in the second place, under the Dahir of 21 August 1935, such execution is permitted only against a debtor who has failed to provide proof of his insolvency (art. 30 bis). In practice, however, resort to this method of enforcement remains rare, because very often in civil matters a debtor who fails to pay his debts to the State (taxes, dues, etc. ...) despite the fact that he is solvent, has his property attached in order to pay off his creditors, without any measures of personal constraint by imprisonment being taken against him.

Article 12: Freedom of movement and freedom to leave one's country and return to it

58. In Morocco, the freedom to go and come, to move and freely to choose one's residence or domicile is recognized in Moroccan law by the provisions of the fundamental law of the Kingdom, namely the Constitution of 1972, which stresses in its article 9 that it guarantees to all citizens "freedom of movement and establishment in all parts of the Kingdom". All movements within Morocco are thus free: any person can, without being subject to any administrative formality and without any control, move from one region to another of Morocco regardless of the purpose of the journey and the distance involved. The same is true when the movement involves the final relinquishing of a dwelling place and settlement in another, i.e. when it is a case of change of residence.

59. For nationals, the freedom to leave Moroccan territory is subject only to the prior obtaining of a national passport containing all the details necessary for the identification of the bearer. Passports are issued for a period of five years, which is renewable. No exit visa is required to leave the national territory. An alien, in order to enter Morocco, must present a valid passport bearing a visa, except where there is a bilateral agreement concluded by Morocco with his country of origin, abolishing the visa requirement.

60. Moroccan workers abroad enjoy the protection of the bilateral or multilateral international labour conventions entered into by Morocco in order to avoid abuses in the matter. The administrative formalities which they have to observe for the renewal of their travel documents have been greatly simplified. In Moroccan law, a worker who is in order in a foreign country and wishes to renew his passport or obtain a new one, has in all cases only to proceed to the consulate or, in its absence, to the nearest diplomatic mission, in order to obtain satisfaction.

Article 13: Prohibition of expulsion without legal safeguards

61. As already indicated in the initial report, and as previously stressed, every alien who is lawfully in Morocco has the right to freedom of movement and choice of domicile as well as to the freedom to leave the country and return to it. By contrast, any alien who is illegally in Morocco may, as in any other country, be expelled in conformity with articles 3 and 12 of the Dahir of 7 Sha'ban 1353 (15 November 1934). He may, however, appeal against expulsion order to the General Directorate of National Security, which has the power to reverse or affirm the decision taken. Any person who is injured by an administrative measure may, after exhausting all other remedies, institute annulment proceedings before the Administrative Chamber of the Supreme Court.

Article 14: Right to a fair and public trial

62. Members of the Human Rights Committee are invited to refer to the information given in the initial report regarding the application of the Covenant on Civil and Political Rights (CCPR/C/10/Add.2). It should be recalled in this connection that article 14 of the Covenant is reflected in a Moroccan constitutional provision, namely article 5: "All Moroccans are equal before the law". Access to the courts of the Kingdom is open to all persons under the same conditions. Articles 76 and 79 of the Constitution proclaim the independence of the Judiciary with respect to the other powers, namely the Legislature and the Executive. The same constitutional provisions deal with the impartiality and irremovability of judges. With regard to the other paragraphs of article 14 relating to the protection of the accused, who are presumed innocent until proved guilty, they are the subject, as mentioned in the initial report, of articles 127, 129, 131, 310 and 313 of the Moroccan Code of Criminal Procedure.

Article 15: Principle of non-retroactivity of the law

63. As indicated in the initial report, article 4 of the Moroccan Constitution of 1972 lays down the principle of non-retroactivity of the law: "The law shall not have retroactive effect". The right stated in article 15 of the Covenant is thus guaranteed.

Article 16: Right to recognition everywhere as a person before the law

64. Article 16 of the Covenant on Civil and Political Rights has found its application in Moroccan positive law. Thus, Dahir No. 1-58-250 of 21 Safar 1378 (6 September 1958) enacting the Moroccan Nationality Code recognizes and guarantees to all Moroccan nationals the application everywhere and at all times of the rules of civil law deriving from their religious faith.

65. Aliens resident in Morocco are subject to their own national laws in all matters relating to personal status and succession. In this connection it should be noted that the civil status of aliens in Morocco is determined by the provisions of the Dahir of 9 Ramadan 1331 (12 August 1913). As for access to Moroccan judicial bodies, aliens on Moroccan territory have free and easy access to them on the same footing of equality and under the same conditions as Moroccans for the purpose of defending their rights and interests.

66. Special measures are applicable to refugees in conformity with the provisions of the Geneva Convention relating to the Status of Refugees of 28 July 1951, Morocco's accession to which was notified on 7 November 1956. These special measures, which are indicated in the initial report, are intended to protect this category of aliens present in Morocco and confer on them a privileged situation compared with other aliens.

Article 17: Right to the protection of privacy

67. The initial report of the Kingdom of Morocco describes the legal framework in which the protection and promotion of the rights set forth in article 17 of the Covenant operate in Morocco. Regarding the protection of privacy, article 64 of the Code of Criminal Procedure specifies that: "Searches may not be made before 5 a.m. or after 9 p.m., except at the request of the head of the household or in response to calls for help coming from inside the house or in exceptional circumstances specified by the law". Those exceptional circumstances are specified by article 103 of the Code: In the event of a crime, proceedings are conducted by the examining judge accompanied by the King's prosecutor. Furthermore, except in cases of flagrant crimes or offences, where the police are allowed to carry out searches, such operations may only be undertaken by the examining magistrate or his deputy. Severe penalties are laid down by article 230 of the Moroccan Criminal Code against anyone failing to observe those conditions.

68. It should be noted that the protection of domicile is laid down in the second paragraph of article 10 of the Moroccan Constitution of 1972 which states that "the domicile shall be inviolable" and that "searches shall be permitted only under the conditions and in the manner prescribed by law".

69. Regarding the protection of the secrecy of correspondence, article 11 of the Constitution settles this question by specifying that "correspondence is secret". In addition, article 232 of the Criminal Code safeguards this right to protection from arbitrary or unlawful interference with the secrecy of correspondence as follows: "Any public official, government agent or employee or official of the postal service who opens, diverts or conceals letters entrusted to the post or permits them to be opened, diverted or concealed, shall be punishable with a penalty of imprisonment of not less than three months and not more than five years and with a fine of from 100 to 1,000 dirhams. The same penalty shall apply to any employee or official of the telegraph service who diverts or conceals a telegram or reveals its contents. The culprit shall, in addition, be barred from all public office or employment for not less than five and not more than 10 years." Article 448 protects this right to the secrecy of correspondence against abuses on the part of private persons: "Any person who, outside the cases mentioned in article 232, opens or conceals in bad faith any letters or correspondence addressed to a third party, shall be punishable with imprisonment for not less than one month and not more than one year and with a fine of from 120 to 500 dirhams or one of those penalties only".

Article 18: Freedom of thought, conscience and religion

70. The application of article 18 of the Covenant relating to the freedom of thought, conscience and religion is guaranteed by the Moroccan Constitution of 1972 which specifies clearly in its article 6 that: "Islam is the religion of the State, which shall guarantee freedom of worship to all". Paragraph 3 of that same article sheds greater light on the meaning to be attached to the foregoing by ruling out any erroneous interpretation, since it specifies that the freedom to practise one's own religion or belief must not be incompatible with the necessity to protect public safety, order, health, morals or the fundamental rights and freedoms of others.

71. Although the Kingdom of Morocco is a Muslim State, it guarantees to non-Muslims the right to worship freely. That can be observed in respect of the Jewish and Christian religions, which are more widespread than others. This bears witness to the considerable tolerance extended in Morocco to the religions of the Book. The right to freedom of worship is protected in Morocco by the provisions of articles 220, 221 and 223 of the Criminal Code which, as described in the initial report, punish any violence, threat, coercion or attack against the free exercise of that right.

Article 19: Freedom of opinion and expression

72. The right to freedom of opinion and expression contained in article 19 of the Covenant is guaranteed by the Moroccan Constitution of 1972, which specifies clearly in its article 9 that: "The Constitution guarantees to all citizens ... freedom of opinion, freedom of expression in all its forms".

73. Dahir No. 1-58-378 of 3 Jumada I 1378 (15 November 1958) enacting the Press Code accords freedom of publication to the press. In that regard, because of the simplicity of the special procedure relating to public periodicals and publications in Morocco there are in the country a considerable number of different national newspapers and reviews which are either the mouthpieces of the various Moroccan political parties or the spokesmen for the viewpoints and programmes of trade union organizations, associations of professional chambers, public institutions or private persons. During the year 1987, there were 194 publications in Morocco, 114 of them in the Arabic language and 80 in French. They can be broken down as follows:

(a) Periodicity: daily (14), weekly (51), fortnightly (17), monthly (46), quarterly (14), half-yearly (14), annual (4) and of no fixed periodicity (4);

(b) Origin: governmental (1), paragovernmental (3), belonging to a political party (13), to a public institution (15), to an educational or teaching institution (9), to an association (23), to a union (4), to a professional institution (7), to a professional Chamber (2), to a company (8) and to a private individual (108).

(c) Areas of interest covered: news (52), culture (44), sport (14), the professional sphere (40), science (6) and miscellaneous (38).

The diversity and pluralism on which the Moroccan press is based is undoubtedly revealing in more than one way and confirms the fundamental importance attached to the freedom of expression enjoyed by all shades of Moroccan political and trade union opinion.

74. It should also be mentioned that as part of the measures adopted to strengthen the principle of freedom of opinion and expression, more than 1,500 foreign newspapers and magazines representing different views, languages and political opinions are freely disseminated and distributed throughout Morocco without any prior requirement, restriction or censorship. In addition, the number of foreign journalists accredited in Morocco rises every year: in 1987 there were more than 50 correspondents representing the various international press agencies, foreign radio stations and major Arabic and international newspapers and reviews. This is attributable to the facilities and advantages with which the journalists are provided in order to allow them to perform their task under the best possible conditions.

75. Moreover, in order to strengthen the resources of the national press and assist political and trade union organizations in playing the role devolving upon them under the Constitution, H.M. Hassan II instructed the Prime Minister, by a royal rescript dated 16 Rabi' II 1407 (19 December 1986) to allocate, as from 1987, the sum of 20 million dirhams per year in the budget for the benefit of national political parties and trade unions to enable them to meet any material problems involved in printing their newspapers.

76. In addition, the constructive dialogue between the authorities and the Moroccan National Press Union (SNPM) led to the following facilities and advantages being granted to the Press and to journalists:

(a) Establishment of a permanent headquarters for SNPM, whose basic expenses and equipment costs are defrayed by the Ministry of Information;

(b) 50 per cent reduction for journalists in Moroccan hotels;

(c) 50 per cent reduction in the fare for travel within Morocco and abroad (Royal Air Maroc, CIM-LN). Also, the National Railway Board (ONCF) provides free travel on its trains for journalists working for the national daily papers and a 50 per cent reduction for other journalists;

(d) Consignment of a large number of national newspapers abroad by Royal Air Maroc with financial support from the Ministry of Information, which bears all the transport costs;

(e) Payment of 50 per cent of the cost of telephone and telex communications by journalists on the national newspapers;

(f) Exemption for the national press from contributing to the budget of the Agence Maghreb Arabe Presse (Maghreb Arab Press Agency) (MAP). This item of expense is covered by the Ministry of Information in order to facilitate the task of the national press;

(g) Coverage of 25 per cent of the cost of typing paper used by the national press.

The Ministry of Information has, moreover, made provision in its own budget for 10 million dirhams (one billion centimes) to meet the cost of those new items of expenditure mutually agreed with the SNPM.

77. The freedoms accorded to Moroccans under article 9 of the Constitution are in fact also extended to aliens. In the case of non-Moroccans, the only requirement with regard to freedom of the press is the obligation for every foreign newspaper or periodical printed in Morocco to obtain a permit granted by decree, in accordance with article 28 of the Dahir of 3 Jumada I 1378 (15 November 1958).

Article 20: Prohibition of propaganda for war

78. The Moroccan Criminal Code of 26 November 1962 is extremely clear in this respect as it explicitly stipulates that "all propaganda for war is prohibited by law". Furthermore, article 188 of the Moroccan Criminal Code lays down a severe penalty, ranging from 5 to 30 years' imprisonment, for "any Moroccan or alien who, by hostile acts that have not been approved by the Government, exposes Morocco to the risk of declaration of war".

79. The provisions of article 20, paragraph 2 of the Covenant, pursuant to which "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law", are also covered by the same sections of Chapter I of the Moroccan Criminal Code, in particular article 201 which imposes the death penalty for "any person conspiring to provoke civil war, by arming the inhabitants or inciting them to take up arms against one another, or conspiring to cause destruction, massacres and looting in one or more douars or townships".

Article 21: Right of assembly

80. The right of assembly covered by article 21 of the International Covenant on Civil and Political Rights is guaranteed to all citizens by article 9 of the Constitution. This constitutional principle is, moreover, governed by Dahir No. 1-58-377 of 3 Jumada I 1378 (15 November 1958) relating to public assemblies, supplemented by a further Dahir of 10 April 1973. Inhabitants are free to hold public assemblies (art. 1 of the 1958 Dahir), and no prior authorization is required. All that is needed is a simple announcement giving the day, time and place of the Assembly. The announcement shall specify the purpose of the meeting and shall be signed by two persons resident in the place where the meeting is due to be held and shall be submitted to the local administrative authority (Pacha or Caïd). This formality is waived for lawfully constituted cultural, artistic, sporting or charitable associations. Participation in a public assembly is prohibited for persons openly or secretly bearing weapons or devices that constitute a threat to public safety.

Article 22: Freedom of association

81. As already mentioned in the initial report, the freedom of association covered by article 22 of the International Covenant on Civil and Political Rights is guaranteed by article 9 of the Moroccan Constitution which stipulates that "the Constitution guarantees to all citizens ... freedom of association and freedom to join a trade union or political organization of their choice" and that "no restriction may be placed on the exercise of these freedoms save by law". Any lawfully registered association may, without special authorization, sue in a civil action, purchase, own and administer, apart from public subsidies, the fees paid by its members and the premises, equipment and buildings strictly necessary for it to carry out its declared

objective. Any association entered into for the purpose of furthering an illicit cause or pursuing an illicit objective contrary to the law and morality, or designed to impair the integrity of the territory of the nation or the monarchical form of the State shall be null and void (Dahir of 15 November 1958, art. 3, relating to the right of association).

Article 23: Protection of the family

82. The family, as an important and essential element of the fundamental social order is afforded legal protection in accordance with the provisions of article 23 of the Covenant. Article 479 of the Moroccan Criminal Code even imposes imprisonment for a period of from one month to one year and a fine of from 200 to 2,000 dirhams on fathers or mothers who, except for reasons beyond their control, leave the family home for more than two months and neglect any or all of the moral and material obligations arising from paternal authority, guardianship or custody.

83. As far as the right to marry and found a family is concerned, article 8 of the Dahir of 28 Rabi' II 1377 (22 November 1957) which established the Code of Personal Status and Succession, provides that "capacity for marriage is acquired:

(a) by a man, on attaining the age of 18 years; however, if serious difficulties are anticipated, the case shall be referred to a magistrate with a view to obtaining a waiver of the age limit;

(b) by a woman, on attaining the age of 15 years. Marriage before the age of legal majority shall be subject to the consent of the wali (legal guardian). If the latter refuses his consent and if disagreement between the parties persists, the matter shall be referred to a magistrate" (art. 9 of the above Code).

84. Regarding measures that apply prior to and during marriage, the Code of Personal Status and Succession lays down a set of measures applicable to marital relations, such as the saddaq (dowry) designed to protect women, full and free consent to marriage, maintenance of the marital home and the care and education of children.

85. As regards the protection and advancement of the family and of children it should be mentioned that there are a large number of associations established for this purpose in Morocco, such as the Moroccan Association for Child Protection and Family Awareness, the Child and Family Protection Association, the Moroccan Association for the Protection of the Family, the Alauite Association for the Protection of the Blind, the Moroccan Child Protection League and the Association for Child Help and Family Awareness. These associations make use of all the facilities available to them, in particular those provided by the Ministry of Handicraft and Social Affairs and the National Mutual Aid Foundation, in order to carry out their task in accordance with the aims and objectives laid down within the framework of protection for and advancement of the rights of the family and children. In doing so they are assisted by the authorities, which provide not only material help but also moral support by facilitating access to the available media (radio, television, the cinema, the press, exhibitions, posters, brochures).

Article 24: Protection of children

86. The provisions of article 24, paragraph 1, of the Covenant relating to the protection of minors are reflected, as was indicated in the initial report, in sections II, III, IV and VII of chapter VIII of the Moroccan Criminal Code entitled "Crimes and offences against the family order and public morality". Section II of the Code punishes exposure and abandonment of children and minors (arts. 459-467). Section III punishes crimes and offences committed to prevent the child being identified (arts. 468-470). Section IV deals with abduction and non-representation of minors (arts. 471-478); lastly, section VII punishes corruption of young persons and prostitution.

87. Article 24, paragraph 2 of the Covenant is reflected and developed by articles 21 and 23 of the Dahir of 24 Shawwal 1333 (4 September 1915) concerning civil status, which provides that all children must be declared immediately (within one month of delivery) following their birth and be given a name.

88. With regard to paragraph 3 of article 24, which stipulates that "every child has the right to acquire a nationality", this fully coincides with the relevant Moroccan legislation, in particular the Dahir of 21 Safar 1378 (6 September 1958) to enact the Moroccan Nationality Code, which establishes the conditions for the attribution and acquisition of Moroccan nationality. As has already been observed, this Code mentions two sources of law relating to nationality: internal law and international law, in the form of international treaties or agreements. In the case of incompatibility between the two, the provisions of international treaties or agreements take precedence over those of internal law (art. 1, second paragraph of the 1958 Moroccan Nationality Code). Moroccan nationality is attributed to children at birth, mainly on the basis of filiation. In this case, of course, it is the nationality of origin. It may also be acquired, during a person's life, through a change in family circumstances or at the express wish of the person concerned. Naturalization is most frequently granted by a decree adopted by the Council of State or exceptionally by a Dahir in those cases provided for by article 12 of the Dahir on nationality. The minor children of a person who acquires Moroccan nationality also become Moroccan by virtue of article 9 of the same Code on Nationality. However, pursuant to another article of the Code, children are entitled to choose between Moroccan nationality and another nationality during the two years before they reach their majority.

Article 25: The right to take part in the conduct of public affairs

89. The provisions made by Moroccan law relating to article 25 of the Covenant were described in detail in the initial report. Further details are given here. According to one of the fundamental principles of the Moroccan Constitution, sovereignty is vested in the Nation, which exercises it either directly by way of referendum or indirectly through constitutional institutions (art. 2). In order to carry out this mission, the political parties, trade unions, communes and professional organizations contribute to the organization and representation of citizens (art. 3). At the local and regional levels, the Dahir of 5 Shawwal 1396 (30 September 1976) which contains "the Charter of the Communes" defines the legal framework to facilitate the democratic organization and management of life at the communal level.

90. In Morocco the commune is considered as "the school of democracy" and is an effective structure not only for promoting the country's pluralist, planned and responsible decentralization, but also the development and expansion of local freedoms and of territorial units which enjoy administrative automony. The communes, which are the core of Moroccan democracy, are territorial communities of public law, endowed with legal personality and financial autonomy, and are moreover a special factor in the country's economic, social and political development. Thus, in 1988, local authorities employed 68,000 officials, 1,730 of whom were at the executive level: the number of local authorities rose from 860 to almost 1,500 and their financial resources were considerably reinforced. In order to promote decentralization, democracy and participation, national symposia devoted to the assessment of the experience acquired and consideration of ways and means of effecting further improvements are organized.

91. Individual and collective freedoms may effectively be exercised in Morocco. Adequate proof is provided by recalling a number of statistics and data. In Morocco there are approximately 17,700 associations covering all spheres of life: politics, culture, science, education, the arts. The political parties alone possess more than 2,300 local branches throughout the national territory and are extremely active. In 1987 they held 2,070 meetings, 38 congresses, 86 conferences, 168 manifestations, i.e. a total of 2,362 activities of various kinds. In 1988 (between 1 January and 31 October) there were 1,511 meetings, 7 congresses, 55 conferences and 134 manifestations, i.e. a total of 1,707.

92. In connection with article 25, paragraph (b) of the Covenant, article 8 of the 1972 Constitution provides that: "all citizens of either sex who are of full age and in possession of their civil and political rights shall be entitled to vote". Any Moroccan fulfilling the following conditions may stand for election: he must be of Moroccan nationality, have attained the age of 25 years, have no record of convictions and be listed on an electoral roll. In addition, candidates may not be law-enforcement officials, magistrates or members of the armed forces (police, gendarmerie). Article 25, paragraph (c) coincides with the provisions of article 12 of the 1972 Moroccan Constitution which reads: "all citizens shall have access to the public service and to public employment under the same conditions".

Article 26: Prohibition on discrimination

93. The principle of the equality of all persons before the law and of equal protection of the law for all is a fundamental constitutional principle under Moroccan law, as has already been explained and developed in the observations on article 2 in this report. This constitutional guarantee is based on the texts of the Koran and of the Sunna which punish discrimination based on origin or on ethnic, racial or regional status.

Article 27: The rights of minorities

94. As regards the principle set out in article 27 of the Covenant, it should be noted that, as already mentioned in the eighth periodic report of the Kingdom of Morocco to the Committee for the Elimination of Racial Discrimination, Morocco is a more than 1,000 year-old melting pot whose original members have fully blended. As a result, the Moroccan nation is constitutionally one and indivisible. This homogeneous nature of the Moroccan nation goes hand in hand with a spirit of openness and coexistence which has always marked Moroccan society. Further clarification of this assertion may be found among the information provided in this report in connection with articles 1, 2, 18, 19, 21 and 22 of the Covenant.